

STANDARDS AND GUIDELINES
FOR ESTABLISHMENT AND MAINTENANCE OF
ALTERNATIVE DISPUTE RESOLUTION FUND PLANS

The Domestic Relations Committee in conjunction with the Alternative Dispute Resolution Committee have developed the following standards and guidelines for implementation of an Alternative Dispute Resolution Fund Plan pursuant to Indiana Code 33-23-6 and Rule 1.11 of the Rules for Alternative Dispute Resolution. The approval of the establishment and maintenance of a Fund Plan by the Executive Director of the Indiana Supreme Court Office of Court Services will be based upon compliance with these standards and guidelines.

[Note: “Standards” are general provisions that must be in any Plan, e.g. all plans must provide for the disbursement of ADR Fund money in a way that primarily benefits those who can least afford to pay. “Guidelines” are merely suggested means to satisfy the standard requirements, e.g. the ADR Fund money will be used to pay for parental counseling for all parties whose combined income is below ____% of the federal poverty level.]

STANDARDS

The Alternative Dispute Resolution Fund Plan must be based on the following standards:

1. The funds must be used to foster domestic relations alternative dispute resolution including mediation, reconciliation, nonbinding arbitration, and parental counseling, and the Plan must specify whether referral and/or acceptance will be mandatory, at the parties’ discretion, or a combination of both. The ADR rules apply if mediation is utilized.
2. The Plan must be approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases.
3. The Plan must primarily benefit those litigants who have the least ability to pay.
4. The Plan may require a co-payment for services in an amount determined by the court and must be based upon the litigant’s ability to pay.
5. The financial viability of the fund must be maintained when allocating costs against the fund. The Plan may charge reasonable administrative costs against the fund. Priority will be given to costs for plan services over administrative costs. The fund should never have a negative balance.
6. A party currently charged with or convicted of a crime under IC 35-42 or a crime in another jurisdiction substantially similar may not participate in the Plan.
7. An Annual Report containing the data requested must be submitted to the Judicial Conference of Indiana by December 31 of each year. The Plan must identify the process by which the data will be gathered in order to fully complete the Annual Report. If additional time is reasonably required to complete the report, a request for an extension must be received by December 31. Failure to submit the Annual Report will suspend operation of the Plan until further notice from the Office of Court Services.

GUIDELINES

The Alternative Dispute Resolution Fund Plan should contain the following information tailored to implement the particular purpose of the program:

1. Program Overview. A description of the Plan's particular purpose or goal and the types of cases accepted by the Plan. This should include reference to the forms of alternative dispute resolution adopted by the Plan as well as indicating the date the Plan is to be effective and when the county will begin collecting the \$20.00 fee.
2. Eligibility Criteria. A description of the criteria used in determining if a party may participate in the Plan. This should include the financial qualifications of the parties including a co-payment requirement and how the co-payment will be determined. Identify if co-payments will be deposited into the fund, or if they will instead be collected directly by the ADR service provider. A reference to parties who may not participate in the Plan by statute should also be included.
3. Referral and Acceptance Process. A description of how a case is referred to and accepted by the Plan. A referral may occur through the use of an application, by request of counsel or a party *pro se*, by the court on its own motion, or by any other method designed to apply the eligibility criteria. The acceptance of a case into the plan should also be described.
4. Plan Education. A description of how information about the Plan, including the assessment of a \$20.00 fee, will be distributed to the various sectors of the county, including but not limited to attorneys, other court/government personnel, social service agencies and providers, and the general public.
5. Plan Coordination. A description of how the Plan and the funds generated will coordinate with any or all of the programs that may exist in the county: other ADR/mediation/facilitation programs or practices, family court project, court interpretive services, CIP funded projects, GAL/CASA programs and *pro se/pro bono* programs.
6. Plan Administration. A description of how the Plan will be administered after a case is accepted by the Plan including who is eligible to mediate, the use of senior judges as mediators, the process of selecting and notifying a mediator, the hourly fee paid under the Plan, any limitations of time or expense per mediation, and the method of evaluating the results realized. The Plan should designate the person(s) responsible for management of the fund.
7. Plan Evaluation. A description of how success of the Plan will be measured, by means of case/calendar analysis, integration with other programs, sufficiency and dedication of resources, satisfaction of participants, etc.
8. Projected Budget. An estimate regarding the revenues to be generated from filing fees based upon prior cases filed and a reference to any other sources of funding such as grants from local organizations. The budget should distinguish between a circuit court fund and a superior court fund if both courts are involved and should estimate the amount of money the county expects to spend on identifiable aspects of the Plan.